



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,171	09/20/2005	Hugo Schweitzer	113999-144196	5246

25943

7590

01/12/2009

SCHWABE, WILLIAMSON & WYATT, P.C.

PACWEST CENTER, SUITE 1900

1211 SW FIFTH AVENUE

PORTLAND, OR 97204

EXAMINER

JOHNSON, BLAIR M

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

01/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,171

Applicant(s)

SCHWEITZER, HUGO

Examiner

Blair M. Johnson

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38, 41-54 and 56-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38, 41-54 and 56-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

Claims 38,41-54 and 56-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 38, "elastic material and/or plastic" is indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38,41-46,48,49,54 and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al.

Hying et al discloses a roller door having a closing element 14 and a safety edge 20,21, of known structure and operation, column 2, line 64- column 3, line 1, of which a photoelectric device is an obvious choice. What is not shown is the reinforcing spring. However, Iseli et al discloses a elastic door edge sensor that has such a reinforcing member 9, Figs. 3 and 4. It would have been obvious to provide one or more such reinforcing elements to the safety edge 21 of Hying so as to stabilize the edge. The relative locations of the leaf springs and safety device is considered to an obvious design choice determined by particular application, size constraints, etc. The particular crossectional shape of the spring would have been an obvious design choice determined by the desired strength, size constraints, etc. The manner in which the

stabilizing element is attached to the closure is clearly an obvious design choice and glue and/or screws would have been well known expedients.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Strand.

Strand provides additional sealing lips that would have been an obvious addition to Hying et al so as to further seal the bottom of the door.

Claims 50-53 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Clark.

Providing bristle sealing/aligning means in a track for a roller closure is well known, as illustrated by Clark and it would have been obvious to provide such for Hying et al so as to both center the closure and to seal the edges. Regarding claim 59, since the upper edges of the channel are vertically offset, the distance from one upper edge to the other, opposing, upper edge is greater than the width of the channel.

Response to Arguments

Applicant's arguments have been fully considered.

Applicant remarks concerning Schestag are persuasive and the applicable rejection has been.

Hying, contrary to Applicant's assertions, clearly states that he provides a leaf spring, that such leaf springs are for reinforcement purposes, and that the leading edge is further located on a larger structure 10 made of foam. Clearly, Hying operates as presently disclosed.

Regarding Clark, the intake element are located on the upper end of the channel, which clearly meets the claimed structure. It is further noted that the presently disclosed features provide no structure wherein the intake element and channel are attached, rendering criticism of the intake element and channel arrangement of Clark moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blair M. Johnson/
Primary Examiner, Art Unit 3634

BMJ
1/9/09

Application Number**Application/Control No.**

10/550,171

Examiner

Blair M. Johnson

**Applicant(s)/Patent under
Reexamination**

SCHWEITZER, HUGO

Art Unit

3634